

**APHIS DIRECTIVE 464.2**  
**3/11/81**

**LABOR-MANAGEMENT RELATIONS PROGRAM**

**I. PURPOSE**

This Directive describes the APHIS Labor Management Relations Program as required by Title VII, Civil Service Reform Act (CSRA) of 1978.

**II. CANCELLATION**

Cancel APHIS Directive 464.2 (3/24/76). Remove that Directive from your files and insert this one.

**III. POLICY**

It is APHIS policy to promote and achieve a meaningful and mutually beneficial Labor-Management Relations Program. The Program should contribute to the well-being of employees, the efficient administration of APHIS programs, and improved and progressive work practices resulting in increased employee performance and efficiency.

**IV. EMPLOYEE RIGHTS**

Each employee has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from such activity.

Each employee is protected in the exercise of this right. No interference, estrait, coercion, or discrimination will be practiced within APHIS to encourage or discourage membership in a labor organization.

**V. RESPONSIBILITIES**

- A. Managers and Supervisors. It is the responsibility of managers and supervisors at all levels to properly and consistently apply the Labor Management Relations policies and procedures outlined in this Directive in their areas of responsibility. They are also responsible for assuring that employees under their direction are apprised of their rights as outlined in paragraph IV. Field officials needing assistance should seek the advice of higher echelon officials through appropriate channels. Likewise, higher echelon officials should maintain a close liaison with the Program Manager, Safety, Health, and Labor Affairs Program (SHLAP), Human Resources Division (HRD), to coordinate and apply these policies and procedures within their respective programs. Whenever the Federal Labor Relations Authority (FLRA), or a labor organization, or any other Government agency with responsibility in the Labor-Management Relations Program requests information, the supervisor or manager involved must promptly notify SHLAP.
- B. Human Resources Division (HRD). HRD has the basic responsibility within APHIS for coordinating, overseeing, and reviewing the effectiveness of the Labor-Management Relations Program. HRD will:
  - 1. Represent the Office of Administrator in conferences, consultations, negotiations, and other dealings with labor organizations.
  - 2. As appropriate, advise and assist program officials in negotiations, labor relations problems, and other dealings with labor organizations at their respective levels.

3. Prepare and present the APHIS position on impasses, unfair labor practice cases, arbitrations, and related matters.
4. Review requests made by labor organizations for exceptions to published policies and regulations of APHIS to determine whether they meet the compelling need criteria of the FLRA and, consequently, act as a bar to negotiations.
5. Represent APHIS in bargaining unit determination proceedings and process petitions as prescribed by FLRA regulations.

#### VI. UNFAIR LABOR PRACTICE CHARGES

Section 7116, Title VII, of CSRA describes specific actions by management and labor organizations which are prohibited conduct under the CSRA and are considered to be unfair labor practices. The following quotations from title VII outline such actions in detail:

"(a). . .It shall be an unfair labor practice for an agency -

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or , has given any information or testimony under this chapter;

"(5) to refuse to consult Or negotiate in good faith with a labor organization as required by Title VII;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by Title VII;

"(7) to enforce any rule or regulation (other than a rule or regulation implementing Section 2302, Title I, CSRA (prohibited personnel practices)) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

"(8) to otherwise fail or refuse to comply with any provision of Title VII.

"(b). . .It shall be an unfair labor practice for a labor organization

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under Title VII;

"(2) to cause or attempt to cause an agency to discriminate I against any employee in the exercise by the employee of any right under Title VII;

"(3) to coerce, discipline, fine, or attempt to coerce a member

of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the members's duties as an employee;

"(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping conditions;

"(5) to refuse to consult or negotiate in good faith with an agency as required by Title VII;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by Title VII;

"(7) (A) to call, or participate in a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operation, or

"(B) to condone any activity described in sub-paragraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of Title VII.

"(c)...it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit presented by such exclusive representatives except for failure -

"(1) to meet reasonable occupational standards uniformly required for admission, or

"(2) to tender dues uniformly required as a condition of inquiring and retaining membership."

Permissible Practice. Section 7116, Title VII of CSRA, describes the following permissible practice:

"(e)...the expression of any personal view, argument, opinion or the making of any statement which -

"(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,

"(2) corrects the record with respect to any false or misleading statement made by any person, or

"(3) informs employees of the government's policy relating to for management relations and representation, shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of Title VII, or (B) constitute grounds for the setting aside of any election conducted under any provision of Title VII."

## VII. FILING OF UNFAIR PRACTICE CHARGES

Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices Except for matters under Section 7121 ((e) id

(f)1 of Title VII, an employee has an option of using the negotiated grievance procedure or a statutory appeal procedure. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under Title VII, but not under both procedures. Unfair labor practice charges filed by a labor organization, an employee, or management must be in accordance with Part 2423 of the rules and regulations of FLRA. Any complaint by a management official against a labor organization must be forwarded to HRD for 'view and concurrence prior to filing.

- 1/ Refers to matters covered by CSRA Sections 4303 and 7512. Section 4303 refers to actions based on unacceptable performance and Section 7512 refers to removal, suspension for more than 14 days, reduction in grade or pay, or furloughs for 30 days or less.

#### VIII. INVESTIGATION OF AN UNFAIR LABOR PRACTICE CHARGE

The management official or supervisor receiving a charge of an unfair labor practice from the FLRA will immediately notify the Program Manager, SHLAP, HRD, Hyattsville, Maryland. A copy of the charge will be immediately forwarded to the Program Manager, SHLAP. Maximum use will be made of informal contacts and discussions with and between representatives of the parties involved so as to produce an acceptable resolution or adjustment of the charge, if possible.

#### IX. CHARGES BY MANAGEMENT OFFICIALS AGAINST A LABOR ORGANIZATION FOR PROHIBITED ACTIVITIES AS PRESCRIBED IN SECTION 7116(b), TITLE VII

If a strike, work stoppage, slowdown, or picketing is called or engaged in by a labor organization representing federal employees, or by the members of such an organization, the supervisor or manager responsible for the federal activity being affected must immediately report the facts by telephone to the Program Manager, SHLAP, HRD will take the action necessary to develop all the facts of the case and will provide a full report to the Director of Personnel, USDA. HRD will also take appropriate action with the FLRA.

#### X. EMPLOYEE ORGANIZATIONAL DUES WITHHOLDING

APHIS Directive 464.5 gives voluntary salary allotment procedures for paying employee organization dues.

Signed by:

James O. Lee, Jr.

**DISTRIBUTION: G03, ALL EMPLOYEES**

**OPR: HRD**